DEC 24
MICHAEL RODAK, JR.

IN THE

Supreme Court of the United States

OCTOBER TERM 1973

No. 73-986

DAVID DOTLICH,

Petitioner.

v.

NANCY KAY DOTLICH,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE

David Dotlich
Attorney Pro Se - Petitioner
5517 Brookdale Drive
Brooklyn Park, Minnesota
Tel. No. 566-2050

TABLE OF CONTENTS

	Page
Opinions Below	2
Jurisdiction	2
Questions Presented for Review	2-3
Statement of the Case	6
Constitutional and Statutory Provisions Involved	4
United States Constitution Amendment XIV	2
Minnesota Statute 518.14	4
Minnesota Statute 518.15	4
Minnesota Statute 518.17	5
Minnesota Statute 518.58	5
Minnesota Statute 518.59	6
Reasons for Granting the Writ	8-9
Conclusion	9-10

TABLE OF SUPPORTING AUTHORITIES

United States v. Cru kshank, 1876, 92 US 542, 23 L ed 588, 95 L ed 785. . . . . .

Stanley v. Illinois, 1972, 31 L ed 2d 551 . . . .

Penny v. Municipal Court of Cherry Hill, Cherry Tp., State of N.J., D.C.N.J. 1970, 312 F.Supp. 938. . .

Ury v. Santee, D.C. Ill. 1969, 303 F.Supp. 119 . .

Sigafu v. Brown, C. A. Ill. 1969, 416 F. 2d 105 .

League of Academic Women v. Regents of University of Cal., D.C. Cal. 1972, 343 F.Supp. 636 . . . . .

INDEX TO APPENDIX

Judgment and Decree is dated March 14, 1973, in Hennepin County District Court, Fourth Judicial District, State of Minnesota, File No. DC 22353 . . . . . .

Order of the United States District Court, Fourth Division, dated June 15, 1973, File No. 4-73 CIV 220 . . . . . .

Judgment and Order of the United States Court of Appeals for the Eighth Circuit dated August 28, 1973, File No. 73-1421 . . . . . .

Order Denying Petition for Rehearing in United States Court of Appeals for the Eighth Circuit dated September 21, 1973, File No. 73-1421 . . . . . .

IN THE

Supreme Court of the United States

OCTOBER TERM 1973

DAVID DOTLICH,

Petitioner,

v.

NANCY KAY DOTLICH

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

TO THE HONORABLE, THE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

Your petitioner, a citizen of the state of Minnesota, David Dotlich, prays that a Writ of Certiorari be issued to review the opinion and judgment of the United States Court of Appeals for the Eighth Circuit which were entered on August 28, 1973.

OPINIONS BELOW

The opinion and judgment of the United States District Court for the State of Minnesota, Fourth Division, entered June 15, 1973, is reproduced in the appendix to this petition.

The opinion and judgment of the United States Court of Appeals for the Eighth Circuit entered August 28, 1973, is reproduced in the appendix to this petition.

The opinion and judgment of the United States Court of Appeals, for rehearing, entered September 21, 1973, and received by petitioner on September 25, 1973, is reproduced in the appendix to this petition.

JURISDICTION

The judgment of the Court below (see appendix) was entered on August 28, 1973. A timely petition for rehearing was denied on September 21, 1973, (see appendix). The jurisdiction of this Court is invoked under Title 28 of the United States Code, Section 1254(1), because title, rights, privileges and/or immunities are claimed under the United States Constitution and United States Statutes and have been denied your petitioner.

QUESTIONS PRESENTED FOR REVIEW

A final hearing was partially held in a Minnesota State Civil Action entitled Nancy Kay Dotlich v. David Dotlich, Hennepin County District Court File No. DC 22 353 on the 5th day of March, 1973. The aforementioned hearing was presided over by the Honorable Thomas Tallakson, Judge of the District Court, Fourth Judicial District for the State of Minnesota at the Hennepin County Courthouse at Minneapolis, Minnesota, whereby the trial judge flagrantly abused his authority and failed to uphold his oath of office to support the Constitution of the United States, and the Laws of the State of

Minnesota, by not honoring an affidavit of prejudice that was timely served and that he had accepted from your petitioner, and apparently collaborating with the respondent's attorney to deprive your petitioner of his rights to a fair and impartial hearing, he failed to protect your petitioner's U. S. Constitutional and Federal Civil Rights by issuing an order extorting the home, property and children from your petitioner for the apparent benefit of the Legal profession and/or otherwise entered an inequitable judgment against your petitioner by denying him the same and equal protection secured under the 14th Amendment to the U. S. Constitution as afforded other United States Citizens and citizens of the State of Minnesota by Statute.

QUESTIONS

1. When a State Court denys any citizen within its jurisdiction the immunities and privileges afforded United States citizens under the United States Constitution can redress be sought in the United States Courts?

2. Are litigants in state domestic civil actions denied the protections of the United States Constitution, congressional law, and/or Minnesota State law?

3. Can a state trial judge display and act with abusive discretion towards one of the litigants in his courtroom, violate state law, and thereafter render, enter, and uphold an inequitable and unjust judgment against that same person?

4. Are the due process clauses of the XIVth Amendment to the Constitution of the United States to be upheld in the Minnesota State Courts?

5. Can a State Court render its judgments based on custom and usage of state law and sex discrimination and comply with the Equal Treatment Clause of the XIVth Amendment to the United States Constitution?

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This instant action arises out of the deprivation of title, rights, privileges and immunities claimed and guaranteed United States citizens under the XIVth Amendment to the United States Constitution pursuant to Title 28 U.S.C.A. § 1441 (b), and 1443 (1) and (2); and Title 42 U.S.C.A. § 1981 through 1990 and 1994; but denied your petitioner through custom and usage of the following state laws:

M.S. 518.14 TEMPORARY ALIMONY OR SUPPORT MONEY; COSTS AND DISBURSEMENTS AND ATTORNEYS FEES. In any action brought either for divorce or separate maintenance, the court, in its discretion, may require one party to pay a reasonable amount, necessary to enable the other spouse to carry on, or to defend the action, and to support such spouse and the children during its pendency. The court may adjudge costs and disbursements against either party. The court may authorize the collection of any money so awarded by execution, or out of any property sequestered, or in any other manner within the power of the court. An award of attorney's fees made by the court during the pendency of the action or in the final judgment survives the action and if not paid by the party directed to pay the same may be enforced as above provided or by a separate civil action brought by the attorney in his own name. If the action is dismissed or abandoned prior to determination and award of attorney's fees the court may nevertheless award attorney's fees upon the attorney's motion and such award shall also survive the action and may be enforced in the same manner as last above provided.

M.S. 518.15 PROTECTION OF WIFE. When an action is commenced, or about to be commenced, to annul a marriage, or for a divorce or separation, the court may, at any time, on the petition of the wife, prohibit the husband from imposing any restraint on her personal liberty during the pendency of the action.

M.S. 518.17 CUSTODY AND SUPPORT OF CHILDREN ON JUDGMENT. Upon adjudging the nullity of a marriage, or a divorce or separation, the court may make such further order as it deems just and proper concerning the care, custody, and maintenance of the minor children of the parties and may determine with which of the parents they, or any of them, shall remain, having due regard to the age and sex of such children and the children's relationship with each parent prior to the commencement of the action. In determining the parent with whom a child shall remain, the court shall consider all facts in the best interest of the children and shall not prefer one parent over the other solely on the basis of the sex of the parent. In determining the appropriate amount of child support to be paid by each parent, the court shall consider the earning capacity and financial circumstances of each parent. On petition for any change in child support because of alleged change in circumstances the court shall take into consideration the earning capacity and financial circumstances of each parent and the custodial parent's spouse, if any.

M.S. 518.58 DISPOSITION OF PROPERTY ACQUIRED DURING COVERTURE. Upon a divorce for any cause, or upon an annulment, the court may make such disposition of the property of the parties acquired during coverture as shall appear just and equitable, having regard to the nature and determination of the issues in the case, the amount of alimony or support money, if any, awarded in the judgment, the manner by which said property was acquired and the persons paying or supplying the consideration therefor, the charges or liens imposed thereon to secure payment of alimony or support money, and all the facts and circumstances of the case.

M.S. 518.59 HOUSEHOLD GOODS, FURNITURE AND OTHER PROPERTY. Upon a divorce for any cause, the court may also award to either spouse the household goods and furniture of the parties, whether or not the same was acquired during coverture, and may also order and decree to either spouse such part of the real and personal estate of the other not acquired during coverture, not exceeding in present value one-half thereof, as it deems just and reasonable, having regard to the amount of property decreed under section 518.58, the amount of alimony and support money awarded, if any, the character and situation of the parties, the nature and determination of the issues, and all other circumstances of the case.

STATEMENT OF THE CASE

A final hearing on the disposition of this state civil action was brought on for hearing before the Honorable Judge Thomas Tallakson, on March 5, 1973, in the Hennepin County Courthouse at Minneapolis, Minnesota in the District Court, Fourth Judicial District, State of Minnesota.

David Dotlich appeared and was represented by himself as Attorney Pro Se. Nancy Kay Dotlich appeared and was represented by her counsel Diana S. Eagon, a local attorney, and exponent of woman's liberation. Several witnesses for each of the parties were also present.

Pre-trial discovery was denied your petitioner by the Judge of the Family Court Division, Judge A. Paul Lommen, and was forced to come on for trial without any knowledge as the the Defendant as to what he had to defend himself against.

Just prior to the hearing counsel for Mrs. Dotlich, Diana S. Eagon, and your petitioner, David Dotlich, were called into Judge Thomas Tallakson's chambers in an effort to try and settle the issues existing between the parties before the hearing started under the guise that

it would be beneficial to both of the parties, and as no one would be happy if the court had to make the decisions. He further made statements that he had not had a chance to read over the case and asked the representatives of both parties for a brief explanation of the matters to be heard.

Counsel for Mrs. Dotlich stated that they didn't care who was granted the divorce whereupon your petitioner stated that he would like to have the divorce granted to him. The opposing counsel replied "If you get custody of the children you can have the divorce."

Judge Tallakson asked if there was a custody question and the opposing counsel stated that there was. Judge Tallakson then tried to talk your petitioner into giving up the children to his wife and stated that it was his belief that the mother should have the children in a dissolution of a marriage contract in spite of your petitioners attempts to explain that the children had repeatedly expressed strong feelings and desires to live with their father.

Further, your petitioner tried to explain that he was more capable and better able to look after the best interests of the minor children of the parties, whereupon Judge Tallakson stated "I can see that we are getting nowhere here so we might just as well get on with the hearing."

Counsel for Mrs. Dotlich and your petitioner then returned to the Courtroom.

As the trial proceeded it became more and more evident that your petitioner was being discriminated against as the counsel for the Respondant was allowed a free rein of the courtroom and given all the time she needed in which to present her case (approximately 6½ hours) and

that your petitioner was not allowed equal ample time to defend himself against false allegations nor given a chance to present his Cross Complaint, but was intimidated to speed up the trial by Judge Tallakson stating that he didn't have time to spend on this case as he had other things to do.

On the morning of March 7, 1973, when the court was called to order your petitioner had no other choice but to serve Judge Tallakson with an Affidavit of Prejudice in an effort to protect his civil rights and United States Constitutional rights and guarantees to a fair and impartial trial.

Upon doing so Judge Tallakson accepted said Affidavit of Prejudice and your petitioner left the Court room. After learning later from his children that Judge Tallakson had issude a Judgment and Decree dated March 14, 1973, in absence and without knowledge of your petitioner whereupon granting a divorce to the Respondant along with 100% of the property and household goods, the children of the parties, and amongst other numerous items assessed unfair and excessive attorney's fees and support payments above and beyond his ability to pay.

REASONS FOR GRANTING THE WRIT

The petitioner herein moves the Court that the state court has denied the right to a fair and impartial trial on the basis of custom and usage of state law and has ignored the protections and guarantees of the United States Constitution and the XIVth Amendment to the Constitution with respect to due process and equal treatment under the law.

Minnesota State Court have consistently and persistently ignored the guarantees of the Federal Constitution in their judicial system.

The petitioner cannot receive a fair trial in the Minnesota State Courts. Apparently the Judges of the Minnesota State Courts only give lip service to the laws passed by their own Minnesota State Legislature.

IN CONCLUSION

The granting of Appellee's motion for dismissal by the U. S. Court of Appeals for the Eighth Circuit should be reversed and this case ordered brought on for a fair and impartial trial on its merits because:

1. The Minnesota State Courts have consistently failed to uphold the United States Constitution by denying its inhabitants equal protection, contrary to the guaranteed protections of the Federal Constitution"* * * to see that the states do not deny the right," (Right of Equal protection by law) and further,"* * * that the Fourteenth Amendment, which prohibits a state from depriving a person of life, liberty, or property without due process of law, added nothing to the rights of one citizen as against another, but simply furnished an additional guarantee against any encroachment by the states upon the fundamental rights which belong to every citizen as a member of society." United States v. Cruikshank (1876) 92 U.S. 542, 23L ed 588, (95 L ed 785).

2. The Federal Courts have jurisdiction over Federal questions and Federal wrongs.

3. The Minnesota State Courts have consistently shown sex discrimination without due course.

4. The state judge and attorney for respondant have repeatedly abused their discretionary powers throughout the trial.

5. Subsequent to this action your petitioner suffered the following:

a) Brought before the state courts on frivolous accusations attempting to coerce your petitioner to transfer his right, title and interest to his homestead without any compensation whatsoever.

b) Petitioner was incarcerated and sentenced to 90 days for not relinquishing his right to his property and family merely to satisfy the demand for unjust legal fees by the opposing attorney.

6. Your petitioner had been determined a fit and proper person for custody of his minor children.

7. After one of your petitioners children had run away from her mother (Respondant) to live with her father (Petitioner) for the third time, the Hennepin County District Court of Minnesota reversed itself and awarded custody of said child to the Petitioner.

8. That the Minnesota Judiciary completely ignors the statutes enacted by the Legislature and assist the incompetent legal profession in their pursuit of the Dollar.

9. For the foregoing reasons your petitioner prays this Writ should be granted.

Respectrully submitted,

BY:

/s/David Dotlich

Citizen Dotlich
Petitioner - Attorney Pro Se
5513 Brookdale Drive #101
Brooklyn Park, Minnesota
55443
Tel No 612-566-2050

APPENDIX

DECREE
DC 22 353

Judgment-Divorce

DISTRICT COURT

STATE OF MINNESOTA

FOURTH JUDICIAL DISTRICT

COUNTY OF HENNEPIN

JUDGMENT AND DECREE

Nancy Kay Dotlich, Plaintiff,

Against

March 14, 1973

David Dotlich, Defendant

The above entitled action having been regularly placed upon the calendar of the above named Court for the September A.D. 1972 General Term thereof, came on for trial before the Court on the 5th day of March, A.D. 1973; and the Court, after hearing the evidence adduced at said trial and being fully advised in the premises, did on the 14th day of March, A.D. 1973, duly make and file its findings and order for judgment herein.

Now, pursuant to said order and on motion of Diana S. Eagon, Esquiress, attorney for plaintiff, it is hereby adjudged and decreed:

1. That the bonds of matrimony heretofore existing between plaintiff and defendant be, and the same are hereby dissolved, and said parties absolutely divorced from each other.

2. That the plaintiff is hereby awarded all right, title and interest in and to the homestead of the parties located at 7801 Sugarloaf Trial, Brooklyn Park, Hennepin County, Minnesota, and legally described as follows, to-wit:

Lot 9, Block 4, Lynbrook Plat No. 1, according to the map or plat thereof on file and of record in the office of the Registrar of Titles in and for Hennepin County, Minnesota,

free of any claim on the part of the defendant herein, but subject to the existing mortgage thereon and easements of record, and defendant, David Dotlich, is hereby ordered to execute forthwith a deed conveying his interest in said real estate to Nancy Kay Dotlich; and in default thereof the decree herein shall be as effectual to transfer such title as the deed of David Dotlich, and the Registrar of Titles of Hennepin County, Minnesota, is ordered to cancel Certificate of Title No. 422034 insofar as it relates to the property above described and issue to Nancy Kay Dotlich a new Certificate of Title therefor.

3. That the plaintiff is hereby awarded 9 shares of American Telephone and Telegraph Company (AT & T) stock which are at present held jointly by the parties together with one-half the dividends received by the parties since the commencement of this action and defendant is hereby ordered to execute forthwith all documents necessary to effectuate said transfer.

4. That the defendant is hereby awarded 9 shares of American Telephone and Telegraph Company (AT & T) stock which are at present held jointly by the parties together with one-half the dividends received by the parties since the commencement of this action and plaintiff is ordered to execute forthwith all documents necessary to effectuate said transfer.

5. That all of the household furniture, kitchen utensils, linen and household personalty of every kind and nature now in possession of plaintiff shall belong to plaintiff, and that defendant shall have no right, title or interest in and to the same.

6. That all of the household furniture, kitchen utensils, linen and household personalty of every kind and nature now in possession of defendant shall belong to defendant, and that plaintiff shall have no right, title or interest in and to the same.

7. That the 1967 Dodge Dart automobile and the 1967 NSU Sport-Prinz automobile are awarded to defendant, and defendant is hereby ordered to remove the 1967 NSU Sport-Prinz automobile from the garage at the homestead within thirty (30) days from the date hereof.

8. That the 1964 Chevrolet automobile is hereby awarded to the plaintiff.

9. That the wedding ring and engagement ring of plaintiff are hereby awarded to plaintiff, and defendant is hereby ordered to return said rings to plaintiff forthwith.

10. That the wedding ring of defendant is hereby awarded to defendant and plaintiff is hereby ordered to return said ring to defendant forthwith.

11. That the plaintiff is hereby granted the care, custody and control of the minor children of the parties subject to visitation by defendant.

12. That visitation between defendant and the minor children of the parties shall be during the first full three weekends of each month commencing 5:30 p.m. Friday and terminating at 6:00 p.m. Sunday and not otherwise. Any voluntary agreements to the contrary acceptable to the Court shall be in writing and filed with the Department of Court Services.

13. That defendant hereby pay to Hennepin County Support and Collection Service as and for support of the minor children of the parties a sum equal to 75% of his net earnings in excess of Seventy ($70.00) Dollars per week up to a maximum child support payment of Three Hundred Fifty-Six ($356.00) Dollars per month payable on the Monday of each week commencing March 12, 1973.

14. That as and for additional support, defendant is to keep in full force and effect any life, hospital and medical insurance he may have covering the minor children and he is to notify plaintiff of the names of the insurance companies and the numbers of each insurance policy.

15. That on any petition to adopt the minor children of the parties, notice must be given to the defendant of such proceedings pursuant to the provisions of M.S.A. 259.26.

16. That defendant is hereby enjoined and restrained from doing or attempting to do any act or harassing, bothering, threatening, injuring, maltreating, vilifying, or molesting the plaintiff or the minor children of the parties in any way and defendant is specifically enjoined from entering the home of plaintiff.

17. That the plaintiff is hereby enjoined and restrained from doing or attempting to do any act of harassing, bothering, threatening, injuring, maltreating, vilifying, or molesting the defendant in any way.

18. That the payment of alimony to plaintiff is hereby reserved.

19. That plaintiff have and recover of the defendant, David Dotlich, the sum of One Thousand ($1,000.00) Dollars as and for temporary and permanent attorney fees and costs for the divorce

action herein, said sum to be payable at the office of plaintiff's attorneys, CRABTREE & EAGON, 1025 West Broadway, Minneapolis, Minnesota 55411.

20. That the arrearage in child support owed by defendant shall not merge with this decree.

BY THE COURT:

GERALD R. NELSON
Clerk of District Court

By s/_____ Deputy

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

FOURTH DIVISION

Nancy Kay Dotlich, Plaintiff,

vs.

David Dotlich, Defendant.

Civil Action File No. 4-73 CIV 220

ORDER TO REMAND

The above-entitled matter duly came on for hearing before the Honorable Earl R. Larson, Judge of the above-named Court, on the 15th day of June, 1973, at 11:00 o'clock in the forenoon or as soon thereafter as counsel was heard, with Diana S. Eagon, appearing on behalf of the plaintiff, Nancy Kay Dotlich, and David Dotlich appearing pro se. Before the Court was the plaintiff's motion to remand this action to the District Court of the State of Minnesota, Fourth Judicial District. The Court finds that it is without jurisdiction in this case.

IT IS HEREBY ORDERED, that this case be and hereby is remanded to the District Court for the State of Minnesota, Fourth Judicial District, for further proceedings therein.

BY THE COURT;

Earl R. Larson

Dated this 15 day of June, 1973.

Filed June 15, 1973
Harry A. Sieben, Clerk
By /s/ Deputy

> have not been filed. The court may dismiss an appeal that is not within the jurisdiction of the court or that it finds to be frivolous and entirely without merit, or may affirm or reverse when the questions presented do not require further argument.

See Milligan v. Milligan, _____ F.2d_____(8th Cir., No. 73-1382, July 26, 1973).

(Not to be printed or published.)

UNITED STATES COURT OF APPEALS

FOR THE EIGHTH CIRCUIT

No. 73-1421

DAVID DOTLICH, Appellant, v. NANCY KAY DOTLICH, Appellee.	Appeal from the United States District Court for the District of Minnesota

Filed: August 28, 1973

Before HEANEY, BRIGHT, and ROSS, Circuit Judges.

ORDER

We summarily dismiss this appeal for want of jurisdiction pursuant to Rule 9(a) of the Rules of this Court published August 15, 1973. That Rule reads:

> (a) ON THE MOTION OF THE COURT. The Court may at any time, on its own motion and without notice, dispose of an appeal summarily, except that notice must be given if the appeal is in forma pauperis, a certificate of probable cause has been issued, and briefs

UNITED STATES COURT OF APPEALS

FOR THE EIGHTH CIRCUIT

No. 73-1421 September Term, 1973

Nancy Kay Dotlich,	)	
	)	
Appellee,	)	Appeal from the United States District Court for the District of Minnesota
	)	
vs.	)	
	)	
David Dotlich,	)	
	)	
Appellant.	)	

Petition of appellant for rehearing filed in this cause having been considered, it is now here ordered by this Court that the same be, and it is hereby, denied.

September 21, 1973